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## **How to overcome shareholder apathy in corporate governance – The role of investor associations in Germany**

**Keywords:** Corporate Governance, Collective Action, Self-help organisations, Germany

### **Abstract:**

Investor apathy by private retail investors and highly diversified institutional investors is often blamed for poor managerial accountability and control of majority investors. Attempts to encourage shareholder activism tend to focus on large institutional investors and ignore retail investors. However, in Germany associations of private retail investors play an increasingly important role in organising collective shareholder action and defining minority shareholder interests. The German example highlights a possible alternative to the US and UK model of shareholder activism, which is dominated by institutional investors.

### **1. Introduction**

Investor apathy towards corporate governance in listed corporations is frequently blamed not only for opportunistic behavior by managers and exploitative blockholders in individual firms but also for systematic failures of corporate governance, most recently in the context of excessive risk taking by financial institutions which lead to the 2007/08 credit crunch and the subsequent global recession (Roe, 1994; Katz, 2006; Walker, 2009; Hill, 2010).

Collective action theory suggests that small retail investors and large institutional investors with widely diversified investment portfolios are likely to suffer from control apathy. Holding only comparatively few shares in any one company, minority shareholders tend to have insufficient economic incentives to act, as the individual benefits they are likely to reap from shareholder activism tend to fall short of the

costs of such action (Olson, 1965; Hirschmann, 1970; La Porta et al., 1999; Shleifer and Vishny, 1997). The more widely dispersed the ownership of a company, the more difficult it becomes for minority shareholders to coordinate their actions (Hardin, 1993), as they need to cooperate with larger numbers of shareholders. Mechanisms or organizations which facilitate collective action of minority investors at low costs are therefore crucial for their incentive and ability to contribute to the control of managers and majority investors.

In Germany, private retail investors have founded associations to facilitate collective action of thousands of individual investors. In addition to providing legal as well as proxy voting advice to retail investors they also increasingly influence the perception minority shareholder interests in Germany. This is in stark contrast to the USA and the UK, where minority shareholder interests tend to be defined from the perspective of institutional investors.

This article explores the increasing importance of investor associations for corporate governance in large listed German companies.

As corporate governance of large German listed companies has changed over the last twenty years, we differentiate between the role of investor associations before and after 1998. While the developments have been gradual and are ongoing, 1998 can be seen as a pivotal year for corporate governance in Germany due to the enactment of the Control and Transparency in Enterprises Act (KonTraG).<sup>1</sup> The act limited the power of majority investors and deposit banks and enabled investor associations to act as proxy voting agents. Moreover, the KonTraG 1998 increased

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<sup>1</sup> Gesetz zur Kontrolle und Transparenz im Unternehmensbereich (KonTraG), BGBl. 1998, pp. 786-794.

the need for collective action by minority shareholders, as it inadvertently increased managerial power.

The article investigates how investor associations contribute to the facilitation of collective action and how their role has developed in response to changes in the German corporate governance system. It also highlights the advantages of defining minority shareholder interests from the perspective of private retail investors rather than institutional investors.

In our conclusion we summarize the contributions of investor associations to corporate governance in Germany.

## **2. Collective action theory and shareholder activism**

Hardin (1993) highlights that within populations latent groups can develop which are able to overcome the collective action problem. By cooperating with each other, group members who stand to gain comparatively much from a collective good are able to reduce the costs each group member has to bear, so that the benefits they individually derive from the collective good outweigh their costs. Since it remains rational for individuals who stand to realize a net gain from the provision of a collective good to contribute to its funding, their decision won't be affected by the free riding of individuals with more marginal pay-out ratios (Olson, 1965: 29).

Following this line of argument, the participation of private retail investors in firms' corporate governance has largely been ignored. Instead, attention has focused on how to incentivize blockholders or institutional investors to contribute to the supervision and control of the companies they invest in (La Porta et al., 1999; Laeven and Levine, 2008; Weber, 2009).

If blockholders or institutional investors are mainly interested in the long-term returns of the firms they invest in, the positive impact of their control efforts on firms' cash

flows and subsequently their share prices and dividend payments will also benefit private retail investors (Holderness, 2003; Jensen and Meckling, 1976). This suggests that private retail investors should either free-ride or they should support larger investors by copying their voting behavior in general meetings.

However, research suggests that blockholders and institutional investors might use their influence in general meetings and boards of directors to promote business decisions which advance their interests at the expense of less powerful investors and the long-term success of firms (La Porta et al., 1999; Laeven and Levine, 2008; Taub, 2009; Weber, 2009). This indicates that, while large investors can play an important role in the supervision and control of management, their dominance can also pose risks to retail investors' interests and firms' long-term prospects.

Concerns about the risks of exploitation by more powerful investors is one of the reasons why associations of private retail investors have a long-standing tradition in Germany, although collective action theory suggests that private retail investors with small, diversified portfolios lack sufficient economic incentives to engage actively in the corporate governance of the firms they invest in. The two largest associations are the DSW (Deutsche Schutzgemeinschaft für Wertpapierbesitz e.V.), which was founded in 1947, and the SdK (Schutzgemeinschaft der Kapitalanleger e.V.), which was founded in 1959.

Investor associations are organized as registered non-profit associations with the explicit objective to promote the interests of their members and private retail investors. The organizations are funded by membership fees. For example, in 2011 the SdK, which has about 12,000 members, charged annual membership fees of €65.00 for private individuals and €175.00 for firms and investment clubs. The DSW,

which has about 28,000 members, charged €95.00 membership fees for private individuals and €150.00 for investment clubs.

Before 1998 investor associations focused on providing legal advice to members who were faced with the exploitation of their investment interests by majority shareholders or powerful creditors. In this context, investor associations also facilitated the cooperation between members when plaintiffs needed to meet minimum investment requirements to undertake legal action.

However, from the mid-1990s onwards, some investor associations responded to the changing corporate governance environment in Germany by expanding their services to provide proxy advisory and voting services, to facilitate collective shareholder activism by private retail investors.

### **3. The development of shareholder associations in Germany**

#### **3.1. Shareholder associations prior to 1998**

Prior to 1998 Germany's corporate governance system was characterized not only by two-tier boards of directors and co-determination but also by the prevalence of majority investors, interlocking share ownership and interlocking supervisory boards as well as the influence of banks on non-financial companies via representation in supervisory boards and the provision of long-term corporate debt (Goergen et al., 2008).

German listed companies have a two-tier board structure with a supervisory board (Aufsichtsrat), which consists of non-executive directors who are elected by shareholders and employees, and an executive board (Vorstand), which is composed of executive directors who are appointed by the supervisory board.

The *Co-determination Act of 1976*<sup>2</sup> stipulates that in limited companies with 2,000 or more employees, half of the members of the supervisory board are elected by the workforce.<sup>3</sup> If no agreement can be reached between the representatives of the shareholders and those of the workforce, the chair, who is always a shareholder representative, has two votes.<sup>4</sup> Never-the-less, supervisory boards tend to operate a consensus system to reduce conflicts between employee and shareholder representatives (Cioffi, 2002).

Unlike in the UK or the USA, shareholder representatives are usually not independent. Before 1998 the German system of corporate governance was characterized by extensive corporate networks, where “public companies, which take (substantive) shares in other companies’ stock, send managers to their supervisory boards, whose members are again members of other supervisory boards, and so on” (Heinze, 2004: 220).

While the majority of interlocking shares were held by non-financial firms, with regard to supervisory boards, bank representatives often also played a key role (La Porta et al., 2000: 17). The appointment of bank representatives to their debtors’ supervisory boards was expected to lead to more flexible and mutually supportive lending relationships (Becht and Boehmer, 2003; Dittman et al., 2010). Moreover, as large

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<sup>2</sup> Mitbestimmungsgesetz, BGBl. 1976 I, p. 1153.

<sup>3</sup> For smaller companies the One-Third Participation Act of 2004 (Drittelbeteiligungsgesetz, BGBl. 2004 I/25, p. 974.) which replaced the *Works Constitution Act* (Betriebsverfassungsgesetz, BGBl. 1952 I, p. 681.) of 1952, stipulates that one-third of the members of the supervisory board of limited companies with at least 500 and up to 2,000 employees are elected by employees.

<sup>4</sup> This rule does not apply to coal and steel companies (*Montan Co-determination Act of 1951*; Montanmitbestimmungsgesetz, BGBl. 1951 I, p. 347).

creditors, bank representatives were expected to have a high incentive to supervise and control the firms' managers and to limit the exploitation of the firm by majority shareholders (Shleifer and Vishny, 1997). For this reason the majority of private retail investors allowed their deposit banks to vote their shares. As most German companies issue bearer shares (DSW, 2009), investors deposit their shares with banks for safekeeping and to facilitate trading and the receipt of dividends. As part of the standard deposit agreement banks used to offer customers to vote their shares for free in line with the bank's recommendations. This enabled banks to dominate the general meetings of the largest listed companies included in the DAX30<sup>5</sup> index.

Interlocking share ownership and interlocking supervisory boards were attractive for majority investors and banks because German company law (AktG<sup>6</sup>) defines the fiduciary duties of directors (§93, §116 AktG) comparatively vaguely (Goergen et al., 2008). While this allows directors to accommodate the interests of a wide range of stakeholders, it also gives them considerable discretion to pursue the interests of individual blockholders, related companies, creditors or particular groups of employees, even if this is at the expense of the interests of the firm as a whole.

Given the dominance of majority investors, creditors and employee representatives, private retail investors stood little chance to influence on the outcomes of general meetings and the appointment of directors.

Therefore private retail investors' only viable option to influence the corporate governance of the firms they invested in was to take derivative action (§147, §148 AktG). However, to undertake derivative action, e.g. to prevent exploitative related

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<sup>5</sup> The DAX30 index covers the 30 largest German listed companies, which account for about 80 per cent of the issued equity capital of listed companies.

<sup>6</sup> Aktiengesetz, BGBl. 1965 I, p. 1089.



party transactions, shareholders are required own at least 10 per cent of the firm's share capital or nominal shares to the value of at least one million Euros. Moreover, in contrast to the USA, in Germany, the fiduciary duties of directors are owed to the firm, rather than its (individual) shareholders (Baums and Scott, 2005; Streeck, 2010). For this reason compensation generated from derivative action accrues to the firm, rather than suing shareholders (Baums and Scott, 2005). While this lessens the incentives for 'nuisance' lawsuits, it reduces the potential pay-off for investors who engage in legitimate derivative action. As in Germany law firms are not permitted to work on a contingency fee basis (Cioffi, 2002), investors who take derivative action tend to bear at least some of the costs of the action.

Private retail investors therefore face significant hurdles both with regard to the need to coordinate the activities of many shareholders in order to overcome ownership thresholds as well as having to bear the costs of legal action. To overcome this collective action problem, private retail investors established non-profit associations to provide legal advice to large numbers of private retail investors and to facilitate cooperation in joint law-suits. By reducing the costs of collective legal action for individual investors, investor associations increased the likelihood of derivative action which acted as a deterrent against exploitative behaviour and increased the chances of all stakeholders of the firm to benefit from any compensation won.

While some members joined investor associations to engage more actively with the corporate governance of listed companies in general, many were attracted by the potential benefit from legal advice and help with the coordination of lawsuits. Although membership fees tended to be fairly low, as the membership increased, they provided sufficient funds for some investor associations to expand their

activities and e.g. engage in lobbying political institutions to improve investor protection.

### **3.2. Shareholder associations after 1998**

From the mid-1990s onwards, increasing competition on international goods and capital markets put pressure on German firms to enhance their cost competitiveness and profitability. At the same time, the ability of the German government and public social security systems to subsidize efficiency improvements of firms via generous tax-breaks and the funding of early retirement schemes became more restricted, due to the accumulation of government debt and rising social security contributions (Streeck, 2010). In addition to the need to invest in efficiency improvements, German firms also needed funds for global expansion plans. Consequently many non-financial firms liquidized their cross-shareholdings and increased their focus on shareholder value in order to attract funding from large international institutional investors (Streeck, 2010).<sup>7</sup>

Moreover, in order to reduce the power of corporate networks (Cioffi, 2002), the KonTraG 1998 stipulated that firms with cross shareholdings of 25% or more of the outstanding share capital are not permitted to participate in the election of members to connected firms' supervisory boards (§328 AktG). This further contributed to the reduction in cross-shareholding levels.

While non-financial firms continue to be the largest group of investors in listed shares (see table 1), the prevalence and size of majority shareholders in German companies has started to fall (see table 2).

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<sup>7</sup> The 2002 tax reforms which removed capital gains tax on the sale of cross-shareholdings further incentivized firms to liquidate such investments (Streeck, 2010).

*[Table 1 about here]*

*[Table 2 about here]*

In particular among the DAX30 companies majority and interlocking share ownership have decreased noticeably, so that the majority of the outstanding share capital is now controlled by highly diversified institutional investors and private retail investors. While interlocking supervisory boards are still frequent, in particular among smaller listed German companies,<sup>8</sup> they have become less effective in maintaining business networks. Whereas in the past representatives of the management of interlocked firms and employees tended to form coalitions in order to stabilize business networks, more recently competitive pressures have lead employee representatives and managers to prioritize the prospects of their own firm and close colleagues, rather than general employment conditions and opportunities at industry level (Sako and Jackson, 2006; Streeck, 2010).

Last, but by no means least, from the mid-1990s onwards large commercial banks expanded and internationalized their investment banking activities. In this context, the close links of banks with non-financial companies via relationship banking, cross-shareholding and supervisory board representation were seen as a competitive disadvantage. Consequently, the banks reduced their presence in the supervisory boards of non-financial companies and liquidated most of their shareholdings (Hackethal et al., 2003; Höpner and Krempel, 2004; Vitols, 2005; Jackson and Moerke, 2005; Streeck, 2010).

At the same time, public criticism of the potential abuse of proxy voting by banks was mounting (Dittman et al., 2010). As prior to 1998 the fiduciary duties of banks

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<sup>8</sup> E.g. Chhaochharia and Laeven (2008) found that between 2003 and 2005 nearly 75 per cent of listed German companies still had interlocking boards.

regarding the use of their customers' votes were not clearly prescribed, critics argued that banks were able to cast the votes in their own rather than the investors' interests (Perlitz and Seger, 1994; Vitols, 2005; Goergen et al., 2008).

Moreover, empirical research into the performance of firms with bank representation in their supervisory board raised doubts about the benefits of the power of banks over non-financial firms. As bank influenced firms neither seemed to enjoy higher profitability nor lower finance costs than firms without bank influence (Perlitz and Seger, 1994; Chirinko and Elston, 2006; Dittman et al., 2010), critics argued that banks used their power to pursue rent-seeking behaviour rather than mutual benefits (Shleifer and Vishny, 1997; Goergen et al. 2008).

Subsequently, the KonTraG 1998 changed the rules regarding the provision of proxy advisory and voting services by banks. In order to safeguard deposit clients' interests, banks which offered to vote their deposit customers' shares had to ensure that their own interests as major creditors or blockholders did not affect the voting proposals issued to their deposit customers (§135 AktG). This regulatory change increased banks' costs of providing proxy advice<sup>9</sup> and reduced their ability to use customers' proxy votes to further their own interests. Unsurprisingly, by 2003 not only large commercial banks but also most public and cooperative banks<sup>10</sup> ceased to

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<sup>9</sup> In 2006 public savings banks estimated that the costs of developing and validating voting proposals to further the interests of deposit customers would exceed € 32 million (Baums, 2007).

<sup>10</sup> The German banking sector is split into three types of banks. Private commercial banks account for about 30 per cent of the assets of the banking system. About 20 per cent of the assets are held by cooperative banks and the remaining 50 per cent by mainly municipal or regional public savings banks (Vitols, 2005).

provide proxy advice and voting services for their deposit clients (Höpner and Krempel, 2004; Hackethal et al., 2005; Jackson and Moerke, 2005; Vitols, 2005).

Although the KonTraG 1998 permitted investor associations and commercial proxy advisory services to provide proxy voting services and simplified the procedures for investors who wanted to vote their shares themselves, in practice, only a small proportion of retail investors initially used these options (Becht and Boehmer, 2003; Mäntysaari, 2005). This contributed to the fall in the voting participation in general meetings of large German companies (see table 3).

*[Table 3 about here]*

This downward trend only started to reverse after 2005 when investor associations increasingly publicized their proxy voting services (FAZ, 2004) and more foreign institutional investors made use of their voting rights.

The KonTraG 1998 was aimed at weakening the power of banks, majority investors and corporate networks in large listed German companies (Cioffi, 2002; Hackethal et al., 2005; Streeck, 2010). However, critics argue that the KonTraG 1998 unintentionally contributed to the development of a control vacuum in large, widely held, listed companies (Hackethal, 2005; Baums and Scott, 2005). As supervision and control by blockholders and banks diminished, the power of management increased. E.g. bank representatives on supervisory boards have been largely replaced not by independent directors but by former managers and, increasingly, retired CEOs are appointed to chair the supervisory boards of the firms they used to manage (Hackethal, 2005).

Moreover, the low voting turnout made companies vulnerable to exploitation by short-term oriented hedge funds, which were able to pass or defeat proposals at general meetings with comparatively low ownership stakes (FAZ, 2004).

In order to increase proxy voting, the German government enacted the Act for the Implementation of the Shareholders' Directive (ARUG) in 2009.<sup>11</sup> As banks had claimed that the costs of developing voting proposals in favor of their deposit customers was one of the main reasons for their reluctance to provide proxy voting services, the government lifted this requirement. The ARUG 2009 requires banks which provide proxy voting services to either supply, as before, voting advice which aims to promote their deposit customers' interests, or they can offer to vote the shares in line with executive and supervisory board recommendations.<sup>12</sup> However, banks which provide either of the two options also have to offer their customers to transfer their voting rights to an investor association or another third party of the investors' choice (§135<sub>(1)</sub> AktG).

Given the costs involved, there is little incentive for banks to engage in the provision of "neutral" proxy advice and voting services (Baums, 2007). If banks provide proxy voting services at all, they tend to offer their deposit customers to vote the shares in line with the recommendations of the company's executive board. While supervisory boards scrutinise executive board proposals and can issue alternative voting recommendations, neither executive nor supervisory boards are under legal obligations to prioritise the interests of minority shareholders. Allowing banks to vote depository shares in line with executive board recommendations will therefore contribute, rather than reduce, the control vacuum in German listed companies.<sup>13</sup>

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<sup>11</sup> Gesetz zur Umsetzung der Aktionärsrechterichtlinie, BGBl. 2009 I, pp. 2479-2494.

<sup>12</sup> If the proxy advice issued by the management board and the supervisory board is not identical, the bank is required to vote the shares in line with the supervisory board's recommendations.

<sup>13</sup> However, it does reduce the threat of exploitation by hedge funds.

While private retail investors are able to vote their own shares, the costs involved remain disproportionate to the potential benefits they are likely to reap. The decision of some investor associations to offer free proxy voting services provides private retail investors with a low cost alternative to voting abstention or voting according to the executive board's recommendations. This is an attractive option as, unlike supervisory and executive boards, investor associations are bound by their statutes to pursue the interests of private retail investors.

Investor associations have an incentive to provide free proxy advisory and voting services, as their influence increases the more shares are voted in line with their recommendations. The advantage to their members derives not only from the increased chances to “win” resolutions at general meetings, but also from the potential inclusion of the investor association in firms’ stakeholder management. As research into the effects of shareholder activism by institutional investors in the USA and UK suggests that ‘back-door diplomacy’ tends to be more beneficial to firm performance than public confrontation (Alexander et al., 2007; Becht et al., 2009), this possibility is particularly attractive. Investor associations therefore have an interest to provide a collective good to benefit their members as well as non-members.

However, if they would only provide proxy advisory and voting services, it would not be economically rational for members to pay for a service they could also receive free of charge. The funding of the proxy advisory and voting services by investor associations rests on their ability to attract members who are either intrinsically motivated or who also have an interest in the opportunity to benefit from their legal advice, only offered to members. The solutions for both collective action problems of

private retail investors, how to facilitate derivative action and how to encourage proxy voting, are therefore closely interrelated.

By default, moreover, investor associations also help highly diversified institutional investors to overcome collective action problems in relation to proxy voting. Commentators suggest that about 25 to 30 per cent of votes cast at general meetings of companies included in the DAX30 index are voted in line with recommendations issued by the DSW (Heismann, 2009). This support stems not only from private retail investors but also from (foreign) institutional investors (Financial Times Deutschland, 2008; Heismann, 2009).

The influence of investor associations on shareholder activism by institutional investors is largely rooted in the ambiguity of German regulations regarding 'acting in concert'. In preparation for the EU takeover directive (2004/25/EC), the German takeover law (WpÜG 2001)<sup>14</sup> introduced a mandatory bid rule in order to protect minority shareholders. It stipulated that, whenever persons acting in concert control 30 per cent or more of a company's share capital, they have to launch a full takeover bid at an equitable price. As neither in the takeover directive nor the WpÜG 2001 fully specified the concept of 'acting in concert', there was confusion about whether institutional investors, which cooperated in order to influence the corporate governance of a firm they invested in, could be forced to launch a takeover bid (Crane and Schaede, 2005). These concerns receded after court decisions in 2004 and 2006 specified that the mandatory bid rule only applied if investors made an agreement about the continuous cooperation in the use of their voting rights. However, after lobbying by German management and trade union representatives, the German government updated the WpÜG in 2008 by issuing the Risk Limitations



Act<sup>15</sup>, which again increased the uncertainty about when a mandatory bid can be enforced (Nieding, 2008).

The legal uncertainty reduces the incentive for direct cooperation between activist institutional investors. However, neither the WpÜG 2001 nor the Risk Limitations Act 2008 affects institutional investors' ability to follow or vocally support investor associations' proxy voting recommendations. Investor associations therefore facilitate not only the collective action of private retail investors but also of institutional investors with similar interests (Reuters, 1992; Heisman, 2009).

The influence of associations of private retail investors, in particular the DSW, on the proxy voting of institutional investors is in noticeable contrast to the situation in the United States, where some activist institutional investors and commercial proxy voting agencies provide free proxy advice to private retail investors. There are a number of reasons why this role reversal is likely to be beneficial to corporate governance in Germany:

The liberalization of capital markets has contributed to an increase in the presence of domestic and foreign institutional investors (see table 1). As a consequence, large German companies have come under increasing pressure to restructure their operations and adopt management practices in line with US models (Chizema 2010). While some of these changes, for instance in relation to corporate reporting, have lead to improved transparency and minority shareholder protection, others have been perceived as less beneficial. Criticism has been leveled in particular at the increased use of executive share options and other remuneration inflating 'performance related' pay systems (Chizema 2010), which are suspected to increase

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<sup>14</sup> Wertpapiererwerbs- und Übernahmegesetz, BGBl. 2001 I, p. 3822.

<sup>15</sup> Risikobegrenzungs-gesetz 2008, BGBl. 2008, I, No. 36, pp. 1666-1671.

managers' risk-appetite and short-term orientation (Chen et al. 2006; Sanders and Hambrick 2007; Chen and Lee, 2010). While (foreign) institutional investors and commercial proxy voting agencies are highly influenced by 'standard' US corporate governance practices, investor associations are influenced by the opinions and experiences of their members. They are therefore more likely to consider the specific German cultural and corporate governance environment in developing proxy advice. This includes a higher preference for lower wage disparities (Chizema, 2010) and long-term business strategies than in Anglo-Saxon countries (Munari et al., 2010). Moreover, there have been concerns that commercial proxy voting agencies and institutional investors such as private pension funds and insurance companies can suffer from conflicts of interest due to their multiple business relationships (Taub, 2009; Belinfanti, 2009). These might encourage them to support the management of the firms they are supposed to supervise and control. Since investor associations do not have business relationships with the companies they advise on, they don't suffer from similar conflicts of interests.

In addition, there have been concerns that shareholder activism by short-term oriented institutional investors, such as hedge funds, leads to changes in business strategies and funding patterns which, while leading to short-term profits (Brav, 2008; Rubach and Sebor, 2009), might jeopardize the long-term financial stability of companies (Economist, 2005; 2009). Especially the strategy of hedge funds to pressurize firms to increase pay-outs to shareholders and increase leverage ratios has often been criticised by shareholder associations as a threat to the long-term interests of the firms and therefore of private retail investors (Timmons and Dougherty, 2006; Kjetland, 2007).

## **4. Conclusion**

Although collective action theory suggests that private retail investors are unlikely to contribute decisively or indeed at all to corporate governance, in Germany non-profit associations of private retail investors are increasingly influencing the corporate governance of large, widely held firms.

Offering member-only legal services helps investor associations to attract sufficient private retail investors to subsidize the provision of proxy advice and voting services to non-members. The facilitation of shareholder activism by non-members is mutually beneficial, as non-members' costs of participating in corporate governance are noticeably reduced and investor associations' benefit from the increased support of their recommendations.

However, it is important to note that investor associations achieve more than simply to increase the proportion of shares voted in general meetings. While private shareholders are able to draw on alternative sources of free proxy advice, such as executive boards, institutional investors or commercial proxy agents, the potential for conflicts of interests among these providers is far greater than that of non-profit investor associations which are bound by their statutes to promote the interests of private retail investors.

Moreover, by influencing the perception of minority investor interests not only of private retail investors but also institutional investors and the public, investor associations contribute both to improved minority shareholder protection and a focus on long-term rather than myopic business strategies.

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## Tables

**TABLE 1**

**Ownership of share capital issued by German firms in per cent**

	1991	1995	2000	2005	2009
Private Households & non-profit organizations	19.31	18.24	16.81	14.08	9.34
Non-financial companies	42.35	44.04	37.76	36.37	41.24
Public Sector	5.38	4.19	2.27	2.33	2.27
Banks and money market funds	12.55	12.91	11.51	10.64	9.09
Other financial institutions	4.24	6.19	14.40	13.61	11.30
Insurance companies	4.91	6.26	4.73	4.52	3.59
Foreign investors	11.28	8.17	12.52	18.44	23.16

Source: Deutsche Bundesbank (2010), *Ergebnisse der Gesamtwirtschaftlichen Finanzierungsrechnung für Deutschland 1991-2009*. Statistische Sonderveröffentlichung 4 (2010).

**TABLE 2**

**Distribution of the largest voting blocks in German listed companies**

Year	Range	Percentage	Year	Range	Percentage
1999	0 - 24.00%	15.53	2005	0 - 24.00%	25.23
	25 - 49.99%	19.06		25 - 49.99%	23.24
	50 - 75.99%	26.35		50 - 75.99%	19.92
	75 – 100%	39.06		75 – 100%	31.61
	Mean	59.76		Mean	52.62
	Median	61.40		Median	50.10

Source: Weber, A. 2009. An empirical analysis of the 2000 corporate tax reform in Germany: Effects on ownership and control in listed companies, *International Review of Law and Economics*, 29(1), p.61

**TABLE 3:**

**Average per cent of votes cast in general meetings of DAX30 companies**

1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
60.95	56.36	54.85	53.03	51.23	49.14	47.29	44.58	49.88	56.42	58.60	58.38	54.38

Source: FAZ (2011) Weniger Aktionäre kommen auf Hauptversammlungen, *Frankfurter Allgemeine Zeitung*, 15/06/2011.